

TOGUT, SEGAL & SEGAL LLP
Attorneys for the
Chapter 7 Trustee
One Penn Plaza, Suite 3335
New York, New York 10119
(212) 594-5000
Albert Togut
Neil Berger

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

96 WYTHE ACQUISITION LLC,

Debtor.
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Chapter 11
Case No. 21-22108 [SHL]

**SUPPLEMENTAL AFFIDAVIT OF
NEIL BERGER PURSUANT TO BANKRUPTCY RULE 2014**

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

Neil Berger, declares the following under penalty of perjury:

1. I am a member of Togut, Segal & Segal LLP (the "Togut Firm") located at One Penn Plaza, New York, New York 10119. I am a member in good standing of the Bar of the State of New York and am admitted to practice in the Federal Courts for the Southern and Eastern Districts of New York.

2. On June 13, 2022, Stephen S. Gray, not individually but solely in his capacity as the Chapter 11 trustee (the "Trustee") of the above-captioned debtor, filed his *Application For Order Authorizing The Chapter 11 Trustee To Retain Togut, Segal & Segal LLP As His Attorneys* (the "Application") [Dkt. No. 606]. The Application was supported by declaration of Albert Togut as a member of the Togut Firm (the "Original Declaration").

3. On June 29, 2022, the Court entered an Order authorizing the employment and retention of the Togut Firm as attorneys for the Trustee (the "Togut Retention Order") [Dkt. No. 614].

4. This supplemental affidavit is being submitted pursuant to the provisions of the Togut Retention Order indicating that not less than (10) business days prior to effecting increases in rates as set forth in the Application, the Togut Firm will file a supplemental affidavit and explain the basis for the requested rate increases in accordance with section 330(a)(3)(F) of the Bankruptcy Code. Except as otherwise indicated herein, I have personal knowledge of the matters set forth herein.

THE TOGUT FIRM HOURLY RATES

5. As set forth in the Togut Affidavit, the Togut Firm's hourly rates are reviewed annually as part of the Togut Firm's ordinary business practices and rate adjustments, if any, are implemented at the beginning of the year. Following its recent review, the Togut Firm has determined that effective March 1, 2023, the hourly rates that it will charge its clients will range from \$920 to \$1,450 for partners; \$950 to \$1,095 for counsel; \$475 to \$905 for associates, and \$195 to \$450 for legal assistants and support staff. These adjustments reflect our continuing goal to provide high quality and cost-efficient services to our clients.

6. When assessing whether or not to adjust its market rates, the Togut Firm obtains information from public sources that provide general information regarding peer firms. Based upon that information, and the Togut Firm having been directly involved in hundreds of cases in the Southern and Eastern Districts of New York, the Togut Firm is knowledgeable about, and familiar with the rates that are charged by other firms of similar reputation, quality and expertise; the Togut Firm's rates are comparable to or lower than such other New York City based firms' rates.

7. The Trustee has been provided with an opportunity to review the hourly rate increases set forth above and he has no objection to the proposed hourly rate increases.

8. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

DATED: New York, New York
February 17, 2023

/s/ Neil Berger
NEIL. BERGER